

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

JOHNNIE BANKSTON,

Plaintiff,

v.

MNICHAEEL WILLIAMS, JEFFREY
DENNISON, and SAMUEL STERRETT,

Defendants.

Case No. 3:15-CV-1275-NJR-MAB

MEMORANDUM AND ORDER

ROSENSTENGEL, Chief Judge:

This matter is before the Court on the Report and Recommendation of United States Magistrate Judge Mark A. Beatty (Doc. 166), which recommends denying the motion to dismiss filed by Samuel Sterrett (Doc. 162).

Plaintiff Johnnie Bankston is an inmate in the Illinois Department of Correction, who is currently incarcerated at Shawnee Correctional Center (“Shawnee”) (Doc. 129). He brings this action under 42 U.S.C. § 1983 for various violations of his constitutional rights (Doc. 129). According to the Third Amended Complaint, Sterrett is the Chaplain at Shawnee and is responsible for conducting and supervising religious activities (*Id.*). Bankston alleges Sterrett has denied him religious services and a diet conforming to his religious tenets (*Id.*). Bankston brings two counts against Sterrett, in his individual and official capacity:

Count 1—First Amendment claim for denial of religious services

Count 3—First Amendment claim for a non-conforming kosher diet.¹

Sterrett moves to dismiss these counts, arguing Bankston has failed to properly allege he was personally involved in the constitutional deprivations (Doc. 162). On May 15, 2019, Judge Beatty issued a Report and Recommendation, which recommends denying Sterrett’s motion (Doc. 166). Judge Beatty reasons that Bankston specifically alleges that Sterrett is responsible for conducting and supervising religious activities at Shawnee, which is sufficient to satisfy the federal pleading standards (*Id.*). The parties did not file objections to the Report and Recommendation, which were due May 29, 2019 (*Id.*).

Where timely objections are filed, this Court must undertake a *de novo* review of the Report and Recommendation. 28 U.S.C. § 636(b)(1)(B), (C); FED. R. CIV. P. 72(b); SDIL-LR 73.1(b); *Harper v. City of Chicago Heights*, 824 F. Supp. 786, 788 (N.D. Ill. 1993); *see also Govas v. Chalmers*, 965 F.2d 298, 301 (7th Cir. 1992). Where neither timely nor specific objections to the Report and Recommendation are made, however, this Court need not conduct a *de novo* review of the Report and Recommendation. *See Thomas v. Arn*, 474 U.S. 140 (1985). Instead, the Court should review the Report and Recommendation for clear error. *Johnson v. Zema Systems Corp.*, 170 F.3d 734, 739 (7th Cir. 1999). A judge may then “accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1).

¹ The Third Amended Complaint alleges four counts, but Bankston voluntarily dismissed counts 2 and 4 (Doc. 145).

The Court has carefully reviewed the briefs submitted by the parties, as well as Judge Beatty's Report and Recommendation. Following this review, the Court fully agrees with the findings, analysis, and conclusions of Judge Beatty and **ADOPTS** the Report and Recommendation in its entirety. The Motion to Dismiss filed by Sterrett (Doc. 162) is **DENIED**.

IT IS SO ORDERED.

DATED: June 18, 2019

A handwritten signature in cursive script, reading "Nancy J. Rosenstengel". The signature is written in dark ink and is positioned above a horizontal line.

NANCY J. ROSENSTENGEL
Chief U.S. District Judge